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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/567,452

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EXAMINER

VOLZ, ELIZABETH J

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06/18/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/567,452	Applicant(s) FALZONI ET AL.	
	Examiner ELIZABETH VOLZ	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 138-141, 143 and 145-158 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 138-141, 143 and 145-158 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 158 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It was not previously disclose that the appendage elements extend away form the outside the thickness of the elongated element in the extend configuration during container first opening.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

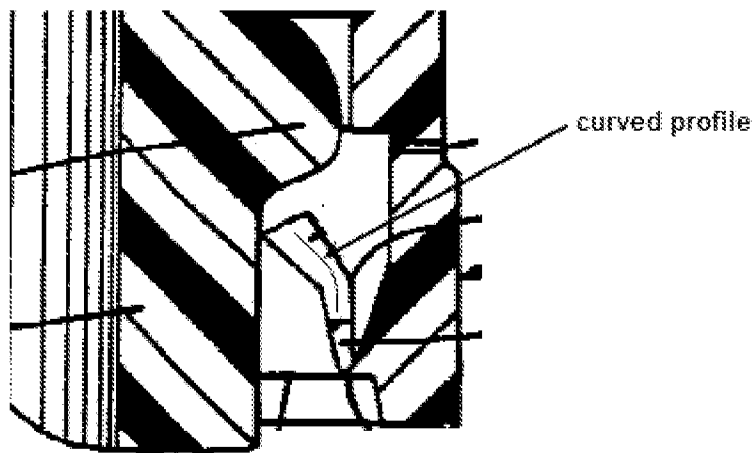
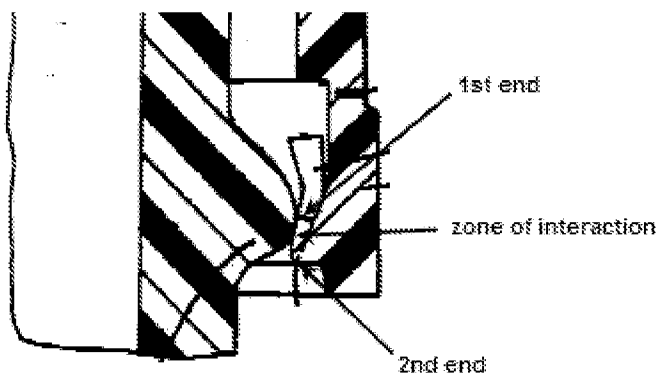
4. Claims 138-141, 143, 145-150 and 156-158 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ingram et al. (U.S. Patent No. 5,611,446).
5. Regarding Claim 138, Ingram et al. discloses a cap arrangement 32 (Figure 2), comprising an opening-indicator device 35 (Figure 2) having an outer edge (Figure 2) wherefrom fin members 40 (Figure 2) lead away and extend, in use, internally of said

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cap arrangement, said fin members being intended to form an abutment (Figure 13) for projection elements 37 (Figure 3) projecting from a neck 31 (Figure 1) of a container arrangement with which said cap arrangement can be associated, said fin members comprising an elongated element 42 (Figure 2) extending substantially rectilinearly from said opening-indicator device, said fin members further comprising flexible appendage elements 43 (Figure 2) forming a free end of said fin members (Figure 3), said elongated element having a first end (Figure 5 below) connected with said opening-indicator device and a second end (Figure 5 below), opposite said first end, to which said appendage elements are connected, said flexible appendage elements having a substantially uniform thickness (Figure 3), said appendage elements leading away from said second end (Figure 3) and said first end comprising a deformable zone acting as plastic hinge 41 (Figure 2) to connect said elongated element to said opening-indicator device, said appendage elements being movable between a folded configuration in which, during the application of said cap arrangement to the neck of the container, said appendage elements are contained in the thickness of said elongated element (Figure 5), and an extended configuration in which said appendage elements extend substantially transversely from said elongated element (Figure 3) and in which said appendage elements have a curved profile (Figure 3 below) adapted to partially surround said projection elements (Figure 13) when the zone of interaction (Figure 5 below) abuts against said projection elements (Figure 5 below) in such a way as to prevent overturning of said fin members around said deformable zone during the first opening of the container. Ingram et al. discloses the claimed invention except for said

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appendage elements being thinner than said second end. It would have been an obvious matter of design choice to have the appendage elements thinner than said second end, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Figure 3 (Ingram et al.)**Figure 5 (Ingram et al.)**

6. Regarding Claim 139, Ingram et al. discloses an elongated element 42 (Figure 2) which is oscillatable around said edge (Figure 2 and Figure 5).

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7. Regarding Claim 140, Ingram et al. discloses an elongated element 42 (Figure 2) which has a wedge-like longitudinal section 43 (Figure 2).

8. Regarding Claim 141, Ingram et al. discloses an elongated element 42 (Figure 2) which is in a proximal portion of said fin members 40 (Figure 2) closer to said edge, and wherein said flexible appendage elements are in a distal portion of said fin members farther away from said edge (Figure 2).

9. Regarding Claim 143, Ingram et al. discloses appendage elements 43 (Figure 2) which can be deformed if subjected to stress directed radially from a central zone of said cap arrangement towards a peripheral zone of said cap arrangement (Figure 8A and Figure 8B).

10. Regarding Claim 145, Ingram et al. discloses fin members 40 (Figure 2) which have a thickness that is less than the difference between the diameter of said projection elements and the diameter of said neck (Figure 5).

11. Regarding Claim 146, Ingram et al. discloses fin members 40 (Figure 2) which are of a height that is less than the distance between said projection elements and a shaped part of said container arrangement extending radially from said neck (Figure 2).

12. Regarding Claim 147, Ingram et al. discloses an elongated element 42 (Figure 2) which is substantially subjected to compression stress, during a first opening of said container arrangement (Figure 2).

13. Regarding Claim 148, Ingram et al. discloses appendage elements 43 (Figure 2) which are shaped in such a way as to interact in a shapingly coupled manner with said

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projection elements, during said first opening, to prevent said fin members from rotating around said opening-indicator device (Figure 13).

14. Regarding Claim 149, Ingram et al. discloses an opening-indicator device which comprises a ring 35 (Figure 2) having an intended separation line system 36 (Figure 2) extending longitudinally along the surface of said ring.

15. Regarding Claim 150, Ingram et al. discloses a threaded device 32a (Figure 2) suitable for engaging in a corresponding further threaded device 31a (Figure 2) obtained in a container arrangement with which said cap arrangement can be associated.

16. Regarding Claim 156, Ingram et al. discloses a zone of interaction (Figure 5 above) and each appendage element 43 (Figure 2) is positioned side-by-side at the second end of the elongated element with the appendage element extending from an outer radial edge of the elongated element (Figure 5 above).

17. Regarding Claim 157, Ingram et al. discloses appendage elements which are movable relative to the elongated elements (Figures 3 and 5).

18. Regarding Claim 158, Ingram et al. discloses appendage elements which are inwardly curved over the second end of the elongated elements in the folded configuration during cap insertion (Figure 5) and, in the extended configuration during container first opening, the appendage elements extend away from and outside the thickness of the elongated element (Figure 3).

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19. Claims 151-155 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ingram et al. (U.S. Patent No. 5,611,446) in view of Dreyer et al. (U.S. Patent No. 6,006,930).

20. Regarding Claim 151, Ingram et al. teaches all the limitations substantially as claimed except for a thread provided with a double start. However, Dreyer et al. teaches a thread with a double start 13 (Figure 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ingram et al. to include a thread with a double start in order to have a greater connection between the closure and the neck of the container (Column 1, Lines 18-22).

21. Regarding Claim 152, Ingram et al. teaches all the limitations substantially as claimed except for a double start continued on the same plane that is substantially parallel to a further plane identified by an opening of said cap arrangement. However, Dreyer et al. teaches a double start 13 (Figure 2) continued on the same plane that is substantially parallel to a further plane identified by an opening of said cap arrangement (Figure 7). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ingram et al. to include a double start continued on the same plane that is substantially parallel to a further plane identified by an opening of said cap arrangement in order to have a greater connection between the closure and the neck of the container (Column 1, Lines 18-22).

22. Regarding Claim 153, Ingram et al. teaches all the limitations substantially as claimed except for double starts mutually staggered by an angle of 180 degrees.

However, Dreyer et al. teaches starts mutually staggered by an angle of 180 degrees

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(Column 1, Line 59-61). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ingram et al. to include starts mutually staggered by an angle of 180 degrees in order to have a greater connection between the closure and the neck of the container (Column 1, Lines 18-22).

23. Regarding Claim 154, Ingram et al. teaches all the limitations substantially as claimed except for a thread comprising a pair of threads with cylindrical helix extending parallel to one another. However, Dreyer et al. teaches a thread comprising a pair of threads 13 (Figure 2) with cylindrical helix extending parallel to one another (Figure 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ingram et al. to include a thread comprising a pair of threads with cylindrical helix extending parallel to one another in order to have a greater connection between the closure and the neck of the container (Column 1, Lines 18-22).

24. Regarding Claim 155, Ingram et al. teaches all the limitations substantially as claimed except for a pair of threads with tapered helix extending parallel to one another. However, Dreyer et al. teaches a pair of threads with tapered helix extending parallel to one another (Figure 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ingram et al. to include a pair of threads with tapered helix extending parallel to one another in order to have a greater connection between the closure and the neck of the container (Column 1, Lines 18-22).

25. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented

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claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

Response to Arguments

26. Applicant's arguments filed 3/17/2010 have been fully considered but they are not persuasive. Applicant argues that the appendage element does not reside in the thickness of the elongated element. However, Applicant does not require the entire appendage element to be contained within the thickness and therefore there is a portion of Ingram et al.'s appendage elements which are contained within the thickness of the elongated element. Applicant also argues that the zone of interaction is never on the elongated element. However, as seen in Figure 5 above, the zone of interaction is on the elongated element.

Conclusion

27. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELIZABETH VOLZ whose telephone number is (571) 270-5430. The examiner can normally be reached on Monday-Thursday, 8am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571) 272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/E. V./
Examiner, Art Unit 3781

/Anthony Stashick/
Supervisory Patent Examiner, Art
Unit 3781